

-
-

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.4967 OF 2006

Between:

V.Nagamani wife of V.Jayaprakash

....Petitioner

vs.

The Branch Manager, State Bank of India, Ananthapur Main Branch.

....Respondent

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.4967 OF 2006

ORAL ORDER

The writ petition is misconceived.

The petitioner challenges the action taken by the State Bank of India, Anantapur main branch under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act"). On 17-10-2005 the petitioner was issued a notice under Sec.13(2) of the Act intimating that the petitioner borrowed an amount, defaulted and was due an outstanding amount of Rs.3,72,295/- plus future interest at the contractual rate which was secured on the basis of mortgage by deposit of title deeds of certain properties. The notice dated 17-10-2005 called upon the petitioner to clear the outstanding amount within sixty (60) days, failing which the Bank would be at liberty to pursue its appropriate remedies under the provisions of the Act. The petitioner not only defaulted earlier but also failed to repay the outstanding amount as notified by the proceedings dated 17-10-2005. Thereupon in exercise of powers, under Section.13(4) of the Act, by the proceedings dated 27-12-2005 possession of the secured assets were taken over by the secured creditor-State Bank of India. On 13-02-2006 the Bank issued a sale notice calling upon the petitioner to discharge in full her liabilities within 30 days from the date of receipt of a copy of the notice, failing which the secured assets would be disposed of in accordance with the powers available to the Bank by way of a public auction after the expiry of period of 30 days. Admittedly the petitioner received this notice on 13-02-2006.

The petitioner's grievance is that on 13-02-2006 itself the Bank issued a notification published in daily press on 16-02-2006 calling for bids in respect of the secured assets intimating that the tenders would be opened on 14-03-2006. The petitioner states that no such tender notification could be issued till after expiry of 30 days from the date of the sale notice dated 13-02-2006. This is the framework and foundation for the writ petition.

The writ petition is *ex facie* misconceived. What all the respondent-Bank/secured creditor is prohibited from doing is to sell the secured assets before the expiry of the 30 days period available to the borrower-the petitioner to repay the debt in full as per the notice issued under Sec.13(2) followed upon by taking possession of the secured assets, under Sec.13(4). The invitation to tender dated 13-02-2006 published on 16-02-2006 specifically and in terms informs the intending bidders that the tenders would be opened only on 14-03-2006, a period beyond the 30 days the petitioner has available, to repay the debt. There is thus no violation of the provisions of the Act or the terms of the sale notice dated 13-02-2006, either textually or in principle.

There are no merits in this writ petition. The writ petition is dismissed.

Nothing in this order shall prevent the petitioner from making any representation to the respondent-Bank. In the circumstances there shall be no order as to costs.

GODA RAGHURAM,J

16TH MARCH 2006

*TSNR